

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

CIVIL ACTION NO. 3:05cv1210 WKW

**CLARA S. MITCHELL, as the personal representative of Bobby L.
Mitchell, deceased** **Plaintiff**

v. DEMAND FOR JURY TRIAL

**DEBBIE A. SWEET; STATE FARM MUTUAL AUTOMOBILE INSURANCE
COMPANY;** **Defendants**

AMENDED COMPLAINT

1. Plaintiff Clara S. Mitchell is an adult resident citizen of the State of Florida and is over the age of 19 years. She has been duly appointed as the personal representative of the estate of Bobby L. Mitchell, deceased.
2. Defendant Debbie A. Sweet is an adult resident citizen of Opelika, Lee County, Alabama.
3. The collision which is the subject of Plaintiff's claims occurred in Tallapoosa County, Alabama.

Count I

1. On October 13, 2005, on U.S. 280 in Tallapoosa County, Alabama, Defendant Debbie A. Sweet so negligently or wantonly operated her vehicle as to fail to yield the right of way to the vehicle driven by the plaintiff's decedent, Bobby L. Mitchell.
2. The negligent or wanton operation of a motor vehicle by Defendant Sweet proximately caused the death of Bobby L. Mitchell, rendering Debbie A.

Sweet liable under Ala. Code §6-5-410 for the wrongful death of Bobby L. Mitchell.

WHEREFORE, plaintiff demands judgment for exemplary damages against the defendant, Debbie A. Sweet, in an amount to be determined by a jury, together with interest from the date of injury and the costs of this proceeding.

COUNT II

3. Plaintiff adopts and re-alleges the foregoing averments and paragraphs as if they were set out in full herein.
4. On October 13, 2005, on U.S. 280 in Tallapoosa County, Alabama, Defendant, Debbie A. Sweet, so negligently or wantonly operated her vehicle as to fail to yield the right of way to the vehicle occupied by the plaintiff, Clara S. Mitchell.
5. Said defendant's negligent or wanton conduct proximately caused personal injuries to the plaintiff.
6. As a result of the negligent or wanton conduct of the above-described defendant, the plaintiff, Clara S. Mitchell, individually, was injured as follows:
 - a. She suffered severe physical pain, including a closed head injury with loss of consciousness, sternal fracture, mental anguish and emotional distress;
 - b. She incurred and continues to incur, expenses for doctors, hospitals, physical therapy, prescription drugs to treat and cure her injuries;

- c. She was caused to be unable to participate in many of her normal and usual activities.

WHEREFORE, plaintiff demands judgment against the defendant, Debbie A. Sweet, in an amount to be determined by a jury, together with interest from the date of injury and the costs of this proceeding.

COUNT III

7. Plaintiff adopts and re-alleges the foregoing averments and paragraphs as if they were set out in full herein.
8. At the aforesaid time and place, the plaintiff, Clara S. Mitchell, and her decedent, Bobby L. Mitchell, were insured under policies of insurance issued by Defendant State Farm Automobile Mutual Automobile Insurance Company covering them in consideration for a premium paid to said defendant.
9. Plaintiff avers that Defendant Debbie A. Sweet is an uninsured/under insured motorist within the meaning of the plaintiff's policy with Defendant State Farm Mutual Automobile Insurance Company and that she is entitled to recover against State Farm Mutual Automobile Insurance Company up to the extent of its coverage for those damages for bodily injury and for wrongful death which plaintiff may be legally entitled to recover from defendant Debbie A. Sweet for the wrongful death of Bobby L. Mitchell and for her own injuries and damages described in Count II.
10. Furthermore, the defendant State Farm Mutual Automobile Insurance

Company has breached the contract of insurance by failing to pay the underinsured motorist benefits on the wrongful death and personal injury claims where the limits of liability covering the defendant, Debbie A. Sweet, are so clearly inadequate to cover the value of the wrongful death and personal injury claims.

WHEREFORE, plaintiff demands judgment against the defendant State Farm Mutual Automobile Insurance Company in an amount equal to the full amount of underinsured motorist benefits applicable to the claim for the wrongful death of Bobby L. Mitchell and the claim for the personal injuries of Clara S. Mitchell, together with interest from the date of loss and the costs of this proceeding.

/s/ROGER L. LUCAS

Roger L. Lucas

AL. Bar Id: ASB 2555 S80R

OF COUNSEL:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 28, 2006 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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